

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DAION WILLIAMS,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:21CV308**

**MEMORANDUM AND ORDER**

This matter is before the court on the Notice of Appeal (filing 6) filed by Petitioner Daion Williams on October 12, 2021.<sup>1</sup> Also before the court is a memorandum from the Clerk of the Court requesting a ruling as to Petitioner's authorization to proceed in forma pauperis on appeal. (Filing 7.)

Petitioner has failed to include the \$505.00 appellate filing and docket fees. Petitioner has not previously been granted leave to proceed in forma pauperis in the district court in connection with his § 2254 petition. Thus, Fed. R. App. P. 24(a)(3), which continues in forma pauperis status on appeal without further authorization, does not apply. Within 30 days, Petitioner must either submit the \$505.00 filing and docket fees to the clerk's office or submit a request to proceed in forma pauperis. Petitioner's appeal cannot be processed until either the appellate

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<sup>1</sup> Pursuant to Federal Rule of Appellate Procedure 4(a)(1)(A), the notice of appeal in a civil case must be filed within 30 days of the entry of judgment. Petitioner's Notice of Appeal is postmarked October 7, 2021, and was filed in this court on October 12, 2021, more than 30 days after the court's Memorandum and Order and Judgment was entered on September 7, 2021. (Filings 4 & 5.) Petitioner may wish to refer to Fed. R. App. P. 4(a)(5)(A) which provides that a district court may extend the time to file a notice of appeal if a party moves for an extension of time and shows excusable neglect or good cause, provided that the party moves for the extension of time within 30 days of the expiration of the 30-day period set out in Rule 4(a)(1)(A).

filing fee is paid or the question of Plaintiff's authorization to proceed on appeal in forma pauperis is resolved.

IT IS THEREFORE ORDERED that:

1. Petitioner is directed to submit the \$505.00 fee to the clerk's office or submit a request to proceed in forma pauperis within 30 days.
2. The clerk of the court is directed to send to Petitioner the Form AO240 ("Application to Proceed Without Prepayment of Fees and Affidavit").
3. The clerk of the court is directed to set a pro se case management deadline in this matter with the following text: **November 15, 2021**: Check for MIFP or payment.

Dated this 14th day of October, 2021.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge